

Remarks

Applicant notes that the Examiner has withdrawn the restriction requirement mailed on 9/30/08. Accordingly claims 41-75 are currently pending. Claims 67 and 70 are currently amended. Claims 76-78 are newly added. Claims 1-40 were previously cancelled in the preliminary amendment filed on January 5, 2006.

The Examiner has rejected claims 67 and 70 under 35 U.S.C. 112, second paragraph, as being indefinite. Claim 67 has now been amended to depend solely from claim 66, and to more clearly recite the plug materials.

Claim 70 has also been amended to now depend from the appropriate claim 69.

It is submitted that claims 67 and 70 as amended overcome the rejections based on 35 U.S.C. 112 and it is requested that those rejections be withdrawn.

Applicant notes that the Examiner has indicated that claims 57 and 62 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claims. Accordingly Applicant has done so and is submitting them herewith as new independent claims 76 and 77. It is respectfully requested that the Examiner allow claims 76 and 77 under the provisions of M.P.E.P. 706.03(k).

The Examiner has rejected claims 41-56, 58-61, 63-69, and 71-75 under 35 U.S.C. 103(a) over EP 0664964 ('964) in view of *Crellin et al.* (US 3,894,545). This rejection is respectfully traversed.

The Examiner has effectively relied on common knowledge in the art in the assertion that it would be obvious to conduct routine experimentation to determine the barrier of Applicant's embodiments. It should be noted that Applicant's barrier embodiments are directed to particular materials as well as to pore sizes. Applicant respectfully traverses that rejection. There is no

teaching, suggestion, or motivation in *Crellin* to use Applicant's materials or pore sizes. *Crellin* discloses only the use of "highly vapour-porous paper" (Column 2, lines 56-59) for its barrier. Accordingly the Examiner is requested to provide documentary evidence if the rejection is to be maintained. M.P.E.P. §2144.03.

Applicant has submitted herewith a Declaration under 37 C.F.R. §1.132 by one of the current inventors traversing the Examiner's rejection, and establishing that the *Crellin* reference to highly vapor-porous paper would not lead one skilled in the art to use vapor porous polymeric material having pores of a size less than about 0.1 μ m as a barrier material.

Accordingly in view of the materials submitted herewith, it is submitted that independent claim 41 is patentable over the art of record. Likewise, claims 42-56, 58-61, 63-69, and 71-75, all either directly or indirectly dependent from claim 41, are also patentable for the reasons stated above.

Therefore it is submitted that this application is now in condition for allowance, and such action is respectfully requested.

The Examiner is invited to contact the undersigned attorney by phone if there are any further issues which require discussion.

Respectfully submitted,

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